

REFERENCE TITLE: **DPS; criminal justice information**

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

# **SB 1125**

Introduced by  
Senator Huppenthal

**AN ACT**

**AMENDING SECTION 41-1750, ARIZONA REVISED STATUTES; RELATING TO CRIMINAL JUSTICE INFORMATION.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1750, Arizona Revised Statutes, is amended to  
3 read:

4 41-1750. Central state repository; department of public safety;  
5 duties; funds; accounts; definitions

6 A. Notwithstanding section 41-2205, the department is responsible for  
7 the effective operation of the central state repository in order to collect,  
8 store and disseminate complete and accurate Arizona criminal history records  
9 and related criminal justice information. The department shall:

10 1. Procure from all criminal justice agencies in this state accurate  
11 and complete personal identification data, fingerprints, charges, process  
12 control numbers and dispositions and such other information as may be  
13 pertinent to all persons who have been charged with, arrested for, convicted  
14 of or summoned to court as a criminal defendant for a felony offense or an  
15 offense involving domestic violence as defined in section 13-3601 or a  
16 violation of title 13, chapter 14 or title 28, chapter 4.

17 2. Collect information concerning the number and nature of offenses  
18 known to have been committed in this state and of the legal steps taken in  
19 connection with these offenses, such other information that is useful in the  
20 study of crime and in the administration of criminal justice and all other  
21 information deemed necessary to operate the statewide uniform crime reporting  
22 program and to cooperate with the federal government uniform crime reporting  
23 program.

24 3. Collect information concerning criminal offenses that manifest  
25 evidence of prejudice based on race, color, religion, national origin, sexual  
26 orientation, gender or disability.

27 4. Cooperate with the central state repositories in other states and  
28 with the appropriate agency of the federal government in the exchange of  
29 information pertinent to violators of the law.

30 5. Ensure the rapid exchange of information concerning the commission  
31 of crime and the detection of violators of the law among the criminal justice  
32 agencies of other states and of the federal government.

33 6. Furnish assistance to peace officers throughout this state in crime  
34 scene investigation for the detection of latent fingerprints and in the  
35 comparison of latent fingerprints.

36 7. Conduct periodic operational audits of the central state repository  
37 and of a representative sample of other agencies that contribute records to  
38 or receive criminal justice information from the central state repository or  
39 through the Arizona criminal justice information system.

40 8. Establish and enforce the necessary physical and system safeguards  
41 to ensure that the criminal justice information maintained and disseminated  
42 by the central state repository or through the Arizona criminal justice  
43 information system is appropriately protected from unauthorized inquiry,  
44 modification, destruction or dissemination as required by this section.

9. Aid and encourage coordination and cooperation among criminal justice agencies through the statewide and interstate exchange of criminal justice information.

10. Provide training and proficiency testing on the use of criminal justice information to agencies receiving information from the central state repository or through the Arizona criminal justice information system.

11. Operate and maintain the Arizona automated fingerprint identification system established pursuant to section 41-2411.

12. Provide criminal history record information to the fingerprinting division for the purpose of screening applicants for fingerprint clearance cards.

B. The director may establish guidelines for the submission and retention of criminal justice information as deemed useful for the study or prevention of crime and for the administration of criminal justice.

C. The chief officers of criminal justice agencies of this state or its political subdivisions shall provide to the central state repository fingerprints and information concerning personal identification data, descriptions, crimes for which persons are arrested, process control numbers and dispositions and such other information as may be pertinent to all persons who have been charged with, arrested for, convicted of or summoned to court as criminal defendants for felony offenses or offenses involving domestic violence as defined in section 13-3601 or violations of title 13, chapter 14 or title 28, chapter 4 that have occurred in this state.

D. The chief officers of law enforcement agencies of this state or its political subdivisions shall provide to the ~~central state repository~~ DEPARTMENT such information as necessary to operate the statewide uniform crime reporting program and to cooperate with the federal government uniform crime reporting program.

E. The chief officers of criminal justice agencies of this state or its political subdivisions shall comply with the training and proficiency testing guidelines as required by the department to comply with the federal national crime information center mandates.

F. The chief officers of criminal justice agencies of this state or its political subdivisions also shall provide to the ~~criminal identification section~~ DEPARTMENT information concerning crimes that manifest evidence of prejudice based on race, color, religion, national origin, sexual orientation, gender or disability.

G. The director shall authorize the exchange of criminal justice information between the central state repository, or through the Arizona criminal justice information system, whether directly or through any intermediary, only as follows:

1. With criminal justice agencies of the federal government, Indian tribes, this state or its political subdivisions and other states, on request by the chief officers of such agencies or their designated representatives, specifically for the purposes of the administration of criminal justice and

1 for evaluating the fitness of current and prospective criminal justice  
2 employees.

3 2. With any noncriminal justice agency pursuant to a statute,  
4 ordinance or executive order that specifically authorizes the noncriminal  
5 justice agency to receive criminal history record information for the purpose  
6 of evaluating the fitness of current or prospective licensees, employees,  
7 contract employees or volunteers, on submission of the subject's fingerprints  
8 and the prescribed fee. Each statute, ordinance, or executive order that  
9 authorizes noncriminal justice agencies to receive criminal history record  
10 information for these purposes shall identify the specific categories of  
11 licensees, employees, contract employees or volunteers, and shall require  
12 that fingerprints of the specified individuals be submitted in conjunction  
13 with such requests for criminal history record information.

14 3. With the board of fingerprinting for the purpose of conducting good  
15 cause exceptions pursuant to section 41-619.55.

16 4. With any individual for any lawful purpose on submission of the  
17 subject of record's fingerprints and the prescribed fee.

18 5. With the governor, if the governor elects to become actively  
19 involved in the investigation of criminal activity or the administration of  
20 criminal justice in accordance with the governor's constitutional duty to  
21 ensure that the laws are faithfully executed or as needed to carry out the  
22 other responsibilities of the governor's office.

23 6. With regional computer centers that maintain authorized  
24 computer-to-computer interfaces with the department, that are criminal  
25 justice agencies or under the management control of a criminal justice agency  
26 and that are established by a statute, ordinance or executive order to  
27 provide automated data processing services to criminal justice agencies  
28 specifically for the purposes of the administration of criminal justice or  
29 evaluating the fitness of regional computer center employees who have access  
30 to the Arizona criminal justice information system and the national crime  
31 information center system.

32 7. With an individual who asserts a belief that criminal history  
33 record information relating to the individual is maintained by an agency or  
34 in an information system in this state that is subject to this section. On  
35 submission of fingerprints, the individual may review this information for  
36 the purpose of determining its accuracy and completeness by making  
37 application to the agency operating the system. Rules adopted under this  
38 section shall include provisions for administrative review and necessary  
39 correction of any inaccurate or incomplete information. The review and  
40 challenge process authorized by this paragraph is limited to criminal history  
41 record information.

42 8. With individuals and agencies pursuant to a specific agreement with  
43 a criminal justice agency to provide services required for the administration  
44 of criminal justice pursuant to that agreement if the agreement specifically  
45 authorizes access to data, limits the use of data to purposes for which given

1 and ensures the security and confidentiality of the data consistent with ~~the~~  
2 ~~provisions of~~ this section.

3 9. With individuals and agencies for the express purpose of research,  
4 evaluative or statistical activities pursuant to an agreement with a criminal  
5 justice agency if the agreement specifically authorizes access to data,  
6 limits the use of data to research, evaluative or statistical purposes and  
7 ensures the confidentiality and security of the data consistent with this  
8 section.

9 10. With the auditor general for audit purposes.

10 11. With central state repositories of other states for noncriminal  
11 justice purposes for dissemination in accordance with the laws of those  
12 states.

13 12. On submission of the fingerprint card, with the department of  
14 economic security to provide criminal history record information on  
15 prospective adoptive parents for the purpose of conducting the preadoption  
16 certification investigation under title 8, chapter 1, article 1 if the  
17 department of economic security is conducting the investigation, or with an  
18 agency or a person appointed by the court, if the agency or person is  
19 conducting the investigation. Information received under this paragraph  
20 shall only be used for the purposes of the preadoption certification  
21 investigation.

22 13. With the department of economic security and the superior court for  
23 the purpose of evaluating the fitness of custodians or prospective custodians  
24 of juveniles including parents, relatives and prospective guardians.  
25 Information received under this paragraph shall only be used for the purposes  
26 of that evaluation. The information shall be provided on submission of  
27 either:

28 (a) The fingerprint card.

29 (b) The name, date of birth and social security number of the person.

30 14. On submission of a fingerprint card, provide criminal history  
31 record information to the superior court for the purpose of evaluating the  
32 fitness of investigators appointed under section 14-5303 or 14-5407, or  
33 guardians appointed under section 14-5206.

34 15. With the supreme court to provide criminal history record  
35 information on prospective fiduciaries pursuant to section 14-5651.

36 16. With the department of juvenile corrections to provide criminal  
37 history record information pursuant to section 41-2814.

38 17. On submission of the fingerprint card, provide criminal history  
39 record information to the Arizona peace officer standards and training board  
40 or a board certified law enforcement academy to evaluate the fitness of  
41 prospective cadets.

42 18. With the internet sex offender web site database established  
43 pursuant to section 13-3827.

1       19. With licensees of the United States nuclear regulatory commission  
2 for the purpose of determining whether an individual should be granted  
3 unescorted access to the protected area of a commercial nuclear generating  
4 station on submission of the subject of record's fingerprints and the  
5 prescribed fee.

6       20. With the state board of education for the purpose of evaluating the  
7 fitness of a certificated teacher or administrator or an applicant for a  
8 teaching or an administrative certificate provided that the state board of  
9 education or its employees or agents have reasonable suspicion that the  
10 certificated person engaged in conduct that would be a criminal violation of  
11 the laws of this state or was involved in immoral or unprofessional conduct  
12 or that the applicant engaged in conduct that would warrant disciplinary  
13 action if the applicant were certificated at the time of the alleged conduct.  
14 The information shall be provided on the submission of either:

15       (a) The fingerprint card.

16       (b) The name, date of birth and social security number of the person.

17       H. The director shall adopt rules necessary to execute the provisions  
18 of this section.

19       I. The director, in the manner prescribed by law, shall remove and  
20 destroy records that the director determines are no longer of value in the  
21 detection or prevention of crime.

22       J. The director shall establish a fee in an amount necessary to cover  
23 the cost of federal noncriminal justice fingerprint processing for criminal  
24 history record information checks that are authorized by law for noncriminal  
25 justice employment, licensing or other lawful purposes. An additional fee  
26 may be charged by the department for state noncriminal justice fingerprint  
27 processing. Fees submitted to the department for state noncriminal justice  
28 fingerprint processing are not refundable.

29       K. The director shall establish a fee in an amount necessary to cover  
30 the cost of processing copies of department reports, eight by ten inch black  
31 and white photographs or eight by ten inch color photographs of traffic  
32 accident scenes.

33       L. Except as provided in subsection 0 of this section, each agency  
34 authorized by this section may charge a fee, in addition to any other fees  
35 prescribed by law, in an amount necessary to cover the cost of state and  
36 federal noncriminal justice fingerprint processing for criminal history  
37 record information checks that are authorized by law for noncriminal justice  
38 employment, licensing or other lawful purposes.

39       M. A fingerprint account within the records processing fund is  
40 established for the purpose of separately accounting for the collection and  
41 payment of fees for noncriminal justice fingerprint processing by the  
42 department. Monies collected for this purpose shall be credited to the  
43 account, and payments by the department to the United States for federal  
44 noncriminal justice fingerprint processing shall be charged against the  
45 account. Monies in the account not required for payment to the United States

1 shall be used by the department in support of the department's noncriminal  
2 justice fingerprint processing duties. At the end of each fiscal year, any  
3 balance in the account not required for payment to the United States or to  
4 support the department's noncriminal justice fingerprint processing duties  
5 reverts to the state general fund.

6 N. A records processing fund is established for the purpose of  
7 separately accounting for the collection and payment of fees for department  
8 reports and photographs of traffic accident scenes processed by the  
9 department. Monies collected for this purpose shall be credited to the fund  
10 and shall be used by the department in support of functions related to  
11 providing copies of department reports and photographs. At the end of each  
12 fiscal year, any balance in the fund not required for support of the  
13 functions related to providing copies of department reports and photographs  
14 reverts to the state general fund.

15 O. The department of economic security may pay from appropriated  
16 monies the cost of federal fingerprint processing or federal criminal history  
17 record information checks that are authorized by law for employees and  
18 volunteers of the department, guardians pursuant to section 46-134,  
19 subsection A, paragraph 15, the licensing of foster parents or the  
20 certification of adoptive parents.

21 P. The director shall adopt rules that provide for:

22 1. The collection and disposition of fees pursuant to this section.

23 2. The refusal of service to those agencies that are delinquent in  
24 paying these fees.

25 Q. The director shall ensure that the following limitations are  
26 observed regarding dissemination of criminal justice information obtained  
27 from the central state repository or through the Arizona criminal justice  
28 information system:

29 1. Any criminal justice agency that obtains criminal justice  
30 information from the central state repository or through the Arizona criminal  
31 justice information system assumes responsibility for the security of the  
32 information and shall not secondarily disseminate this information to any  
33 individual or agency not authorized to receive this information directly from  
34 the central state repository or originating agency.

35 2. Dissemination to an authorized agency or individual may be  
36 accomplished by a criminal justice agency only if the dissemination is for  
37 criminal justice purposes in connection with the prescribed duties of the  
38 agency and not in violation of this section.

39 3. Criminal history record information disseminated to noncriminal  
40 justice agencies or to individuals shall be used only for the purposes for  
41 which it was given. Secondary dissemination is prohibited unless otherwise  
42 authorized by law.

43 4. The existence or nonexistence of criminal history record  
44 information shall not be confirmed to any individual or agency not authorized  
45 to receive the information itself.

5. Criminal history record information to be released for noncriminal justice purposes to agencies of other states shall only be released to the central state repositories of those states for dissemination in accordance with the laws of those states.

6. Criminal history record information shall be released to noncriminal justice agencies of the federal government pursuant to the terms of the federal security clearance information act (P.L. 99-169).

R. This section and the rules adopted under this section apply to all agencies and individuals collecting, storing or disseminating criminal justice information processed by manual or automated operations if the collection, storage or dissemination is funded in whole or in part with monies made available by the law enforcement assistance administration after July 1, 1973, pursuant to title I of the crime control act of 1973, and to all agencies that interact with or receive criminal justice information from or through the central state repository and through the Arizona criminal justice information system.

S. This section does not apply to criminal history record information contained in:

1. Posters, arrest warrants, announcements or lists for identifying or apprehending fugitives or wanted persons.

2. Original records of entry such as police blotters maintained by criminal justice agencies, compiled chronologically and required by law or long-standing custom to be made public if these records are organized on a chronological basis.

3. Transcripts or records of judicial proceedings if released by a court or legislative or administrative proceedings.

4. Announcements of executive clemency or pardon.

5. Computer databases, other than the Arizona criminal justice information system, that are specifically designed for community notification of an offender's presence in the community pursuant to section 13-3825 or for public informational purposes authorized by section 13-3827.

T. Nothing in this section prevents a criminal justice agency from disclosing to the public criminal history record information that is reasonably contemporaneous to the event for which an individual is currently within the criminal justice system, including information noted on traffic accident reports concerning citations, blood alcohol tests, intoxilyzer tests or arrests made in connection with the traffic accident being investigated.

U. In order to ensure that complete and accurate criminal history record information is maintained and disseminated by the central state repository:

1. The arresting authority shall take legible fingerprints of all persons arrested for offenses specified in subsection C of this section and, within ten days of the arrest, the arresting authority shall forward the fingerprints to the department in the manner or form required by the department. On the issuance and service of a summons for a defendant who is

1 charged with a felony offense, a violation of title 13, chapter 14 or title  
2 28, chapter 4 or a domestic violence offense as defined in section 13-3601,  
3 the court shall order that the defendant be fingerprinted by the appropriate  
4 law enforcement agency and that the defendant appear at a designated time and  
5 place for fingerprinting. At the initial appearance or on the arraignment of  
6 a summoned defendant who is charged with a felony offense, a violation of  
7 title 13, chapter 14 or title 28, chapter 4 or a domestic violence offense as  
8 defined in section 13-3601, the court shall order that the defendant be  
9 fingerprinted at a designated time and place by the appropriate law  
10 enforcement agency if the court has reasonable cause to believe that the  
11 defendant was not previously fingerprinted.

12 2. In every criminal case in which the defendant is incarcerated or  
13 fingerprinted as a result of the charge, an originating law enforcement  
14 agency or prosecutor, within forty days of the disposition, shall advise the  
15 central state repository of all dispositions concerning the termination of  
16 criminal proceedings against an individual arrested for an offense specified  
17 in subsection C of this section. This information shall be submitted on a  
18 form or in a manner required by the department.

19 3. Dispositions resulting from formal proceedings in a court having  
20 jurisdiction in a criminal action against an individual who is arrested for  
21 an offense specified in subsection C of this section or section 8-341,  
22 subsection R shall be reported to the central state repository within forty  
23 days of the date of the disposition. This information shall be submitted on  
24 a form or in a manner specified by rules approved by the supreme court.

25 4. The state department of corrections or the department of juvenile  
26 corrections, within forty days, shall advise the central state repository  
27 that it has assumed supervision of a person convicted of an offense specified  
28 in subsection C of this section or section 8-341, subsection R. The state  
29 department of corrections or the department of juvenile corrections shall  
30 also report dispositions that occur thereafter to the central state  
31 repository within forty days of the date of the dispositions. This  
32 information shall be submitted on a form or in a manner required by the  
33 department of public safety.

34 5. Each criminal justice agency shall query the central state  
35 repository before dissemination of any criminal history record information to  
36 ensure the completeness of the information. Inquiries shall be made before  
37 any dissemination except in those cases in which time is of the essence and  
38 the repository is technically incapable of responding within the necessary  
39 time period. If time is of the essence, the inquiry shall still be made and  
40 the response shall be provided as soon as possible.

41 V. The director shall adopt rules specifying that any agency that  
42 collects, stores or disseminates criminal justice information that is subject  
43 to this section shall establish effective security measures to protect the  
44 information from unauthorized access, disclosure, modification or  
45 dissemination. The rules shall include reasonable safeguards to protect the

1 affected information systems from fire, flood, wind, theft, sabotage or other  
2 natural or man-made hazards or disasters.

3 W. The department shall make available to agencies that contribute to,  
4 or receive criminal justice information from, the central state repository or  
5 through the Arizona criminal justice information system a continuing training  
6 program in the proper methods for collecting, storing and disseminating  
7 information in compliance with this section.

8 X. Nothing in this section creates a cause of action or a right to  
9 bring an action including an action based on discrimination due to sexual  
10 orientation.

11 Y. For THE purposes of this section:

12 1. "Administration of criminal justice" means performance of the  
13 detection, apprehension, detention, pretrial release, ~~post-trial~~ POSTTRIAL  
14 release, prosecution, adjudication, correctional supervision or  
15 rehabilitation of criminal offenders. Administration of criminal justice  
16 includes enforcement of criminal traffic offenses and civil traffic  
17 violations, including parking violations, when performed by a criminal  
18 justice agency. Administration of criminal justice also includes criminal  
19 identification activities and the collection, storage and dissemination of  
20 criminal history record information.

21 2. "Administrative records" means records that contain adequate and  
22 proper documentation of the organization, functions, policies, decisions,  
23 procedures and essential transactions of the agency and that are designed to  
24 furnish information to protect the rights of this state and of persons  
25 directly affected by the agency's activities.

26 3. "Arizona criminal justice information system" or "system" means the  
27 statewide information system managed by the director for the collection,  
28 processing, preservation, dissemination and exchange of criminal justice  
29 information and includes the electronic equipment, facilities, procedures and  
30 agreements necessary to exchange this information.

31 4. "Central state repository" means the central location within the  
32 department for the collection, storage and dissemination of Arizona criminal  
33 history records and related criminal justice information.

34 5. "Criminal history record information" and "criminal history record"  
35 means information that is collected by criminal justice agencies on  
36 individuals and that consists of identifiable descriptions and notations of  
37 arrests, detentions, indictments and other formal criminal charges, and any  
38 disposition arising from those actions, sentencing, formal correctional  
39 supervisory action and release. Criminal history record information and  
40 criminal history record do not include identification information to the  
41 extent that the information does not indicate involvement of the individual  
42 in the criminal justice system or information relating to juveniles unless  
43 they have been adjudicated as adults.

1           6. "Criminal justice agency" means either:

2           (a) A court at any governmental level with criminal or equivalent  
3 jurisdiction, including courts of any foreign sovereignty duly recognized by  
4 the federal government.

5           (b) A government agency or subunit of a government agency that is  
6 specifically authorized to perform as its principal function the  
7 administration of criminal justice pursuant to a statute, ordinance or  
8 executive order and that allocates more than fifty per cent of its annual  
9 budget to the administration of criminal justice. This subdivision includes  
10 agencies of any foreign sovereignty duly recognized by the federal  
11 government.

12           7. "Criminal justice information" means information that is collected  
13 by criminal justice agencies and that is needed for the performance of their  
14 legally authorized and required functions, such as criminal history record  
15 information, citation information, stolen property information, traffic  
16 accident reports, ~~and~~ wanted persons information **AND SYSTEM NETWORK LOG**  
17 **SEARCHES**. Criminal justice information does not include the administrative  
18 records of a criminal justice agency.

19           8. "Disposition" means information disclosing that a decision has been  
20 made not to bring criminal charges or that criminal proceedings have been  
21 concluded or information relating to sentencing, correctional supervision,  
22 release from correctional supervision, the outcome of an appellate review of  
23 criminal proceedings or executive clemency.

24           9. "Dissemination" means the written, oral or electronic communication  
25 or transfer of criminal justice information to individuals and agencies other  
26 than the criminal justice agency that maintains the information.  
27 Dissemination includes the act of confirming the existence or nonexistence of  
28 criminal justice information.

29           10. "Management control":

30           (a) Means the authority to set and enforce:

31           (i) Priorities regarding development and operation of criminal justice  
32 information systems and programs.

33           (ii) Standards for the selection, supervision and termination of  
34 personnel involved in the development of criminal justice information systems  
35 and programs and in the collection, maintenance, analysis and dissemination  
36 of criminal justice information.

37           (iii) Policies governing the operation of computers, circuits and  
38 telecommunications terminals used to process criminal justice information to  
39 the extent that the equipment is used to process, store or transmit criminal  
40 justice information.

41           (b) Includes the supervision of equipment, systems design, programming  
42 and operating procedures necessary for the development and implementation of  
43 automated criminal justice information systems.

1        11. "Process control number" means the Arizona automated fingerprint  
2 identification system number that attaches to each arrest event at the time  
3 of fingerprinting and that is assigned to the arrest fingerprint card,  
4 disposition form and other pertinent documents.

5        12. "Secondary dissemination" means the dissemination of criminal  
6 justice information from an individual or agency that originally obtained the  
7 information from the central state repository or through the Arizona criminal  
8 justice information system to another individual or agency.

9        13. "Sexual orientation" means consensual homosexuality or  
10 heterosexuality.

11       14. "Subject of record" means the person who is the primary subject of  
12 a criminal justice record.